

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). (This is a GIL).

December 29, 1999

Dear Xxxxx:

This letter is in response to your letter dated November 10, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

I am PERSON, the manager of COMPANY. I am writing to you because I have some problems about the sales tax. One of my former customer, NAME who has been using my company name ordering electronic products from BUSINESS for his sister's company without my permission. Mr. NAME bought a computer from my company this year, so he knew my company. He uses my company name to order products, and then let someone pick up the products from that company and deliver them to him. It is illegal to do the business this way, and I think I may have to bring in a law suit against him.

I'm a businessman and I want to do business legally and I don't want get any troubles in USA. Since BUSINESS sent NAME's invoices to my company, I am worried about, if you collect the sales tax of those orders, who should pay the sales tax to the Illinois Department of Revenue?

The invoices I received from BUSINESS by the end of October are listed as following:

| Date     | Invoice | Amount  | Part No. & | Description |
|----------|---------|---------|------------|-------------|
| 06-30-99 | ####    | 3000.00 | ####       | description |
| 06-30-99 | ####    | 1648.00 | ####       | description |
| 06-28-99 | ####    | 57.30   | ####       | description |
| 06-28-99 | ####    | 57.30   | ####       | description |
| 05-31-99 | ####    | 391.00  | ####       | description |
| 05-13-99 | ####    | 2673.75 | ####       | description |
| 05-13-99 | ####    | 59.75   | ####       | description |

Total \$7887.10

The sales tax is  $\$7887.10 \times 8.75\% = \$690$ . If you collect this tax, please send me an official document, or a formal letter, and I'll forward it to NAME, let him pay the sales tax to your Department directly. If you are not going to collect the tax, please also write me a letter, because I need to keep it in my file.

If you want to send the documents/letters to NAME, you can use his sister's address:

...

or you can call NAME at ####. I don't have his home address.

I am looking forward to your reply.

The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition).

When items of tangible personal property are purchased from Illinois retailers and are delivered in Illinois, tax is incurred. The purchaser of the item has incurred a Use Tax liability that they should pay to the Illinois retailer at the time of purchase. The entity that pays the invoices as the purchaser is responsible for the payment of the Use Tax to the retailer.

Please contact the retailer from whom the items were purchased to clear up any misunderstandings about the purchase and who the purchaser was.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at [www.revenue.state.il.us](http://www.revenue.state.il.us). If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Melanie A. Jarvis  
Associate Counsel